

§ 435.3

that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount that could have been awarded under the recipient's approved negotiated indirect cost rate.

Working capital advance means a procedure in which funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 435.3 Effect on other issuances.

For awards subject to this part, the requirements of this part apply, rather than the administrative requirements of other codified program regulations, program manuals, handbooks and other nonregulatory materials, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 435.4.

§ 435.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part will be permitted only in unusual circumstances. SSA may apply more restrictive requirements to a class of recipients when approved by OMB. SSA may apply less restrictive requirements when awarding small awards, except for those requirements that are statutory. SSA may also make exceptions on a case-by-case basis.

§ 435.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part will be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, other non-profit, or commercial organizations. State and local government subrecipients are subject to the provisions of 20 CFR Part 437, "Uniform Administrative Requirements for Grants and Cooperative

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Agreements to State and Local Governments."

Subpart B—Pre-Award Requirements

§ 435.10 Purpose.

Sections 435.11 through 435.17 prescribe forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 435.11 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, SSA will decide on the appropriate award instrument (*i.e.*, grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts.

(1) *Grants and cooperative agreements.* A grant or cooperative agreement will be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement."

(2) *Contracts.* Contracts will be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* SSA will notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

§ 435.12 Forms for applying for Federal assistance.

(a) SSA must comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by SSA in place of or as a supplement to the Standard Form 424 (SF-424) series.